

By:

Carmon

S.B. No. 1246

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbers and related occupations, barbershops and specialty shops, and barber schools; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.051(b), Occupations Code, is amended to read as follows:

(b) One member appointed under Subsection (a)(1) must be a resident of a county with a population of 75,000 [~~25,000~~] or less.

SECTION 2. Section 1601.253(b), Occupations Code, is amended to read as follows:

(b) The board shall issue a Class A barber certificate to an applicant who:

(1) complies with the application requirements of this chapter;

(2) passes the examination with an average grade of at least 75 percent;

(3) pays a fee set by board rule [~~not to exceed \$100~~]; and

(4) possesses the other qualifications required by this chapter.

SECTION 3. Sections 1601.254(a) and (c), Occupations Code, are amended to read as follows:

(a) An applicant for a teacher's certificate must:

- (1) be a Class A barber;
- (2) have at least five years' experience as a practicing barber in a barbershop, two years of which occurred in the two years preceding the application date; and
- (3) submit an examination fee set by board rule [~~not to exceed \$100~~] with the application.

(c) The board shall issue a teacher's certificate to an applicant who:

- (1) passes the appropriate examination; and
- (2) pays a certificate fee set by board rule [~~not to exceed~~].

~~[(A) \$100, if the applicant fulfills the certificate requirements during the period beginning November 1 of an odd-numbered year and extending through October 31 of the following year; or~~

~~[(B) \$50, if the applicant fulfills the certificate requirements during the period beginning November 1 of an even-numbered year and extending through October 31 of the following year].~~

SECTION 4. Sections 1601.256(b) and (d), Occupations Code, are amended to read as follows:

(b) An applicant for a barber technician license must:

- (1) be at least 16 years of age;
- (2) have completed the seventh grade or the equivalent of the seventh grade;
- (3) have completed a course of instruction in a board-approved training program consisting of not less than 300

1 hours in a period of not less than eight weeks; and

2 (4) submit a [~~\$10 administration~~] fee set by board
3 rule with the application.

4 (d) The board shall issue a barber technician license to an
5 applicant who:

6 (1) possesses the qualifications described by
7 Subsection (b);

8 (2) passes the appropriate examination;

9 (3) pays a license fee set by the board [~~not to exceed~~
10 ~~\$100~~]; and

11 (4) has not committed an act that is a ground for
12 denial of a license.

13 SECTION 5. Sections 1601.257(b) and (c), Occupations Code,
14 are amended to read as follows:

15 (b) An applicant for a manicurist license must:

16 (1) be at least 17 [~~16~~] years of age;

17 (2) have completed the seventh grade or the equivalent
18 of the seventh grade;

19 (3) have completed a board-approved training program
20 consisting of 600 hours of instruction in manicuring; and

21 (4) submit a [~~\$10 administration~~] fee set by board
22 rule with the application.

23 (c) The board shall issue a manicurist license to an
24 applicant who:

25 (1) possesses the qualifications described by
26 Subsection (b);

27 (2) passes the appropriate examination;

1 (3) pays a license fee set by board rule [~~not to exceed~~
2 \$30]; and

3 (4) has not committed an act that is a ground for
4 denial of a license.

5 SECTION 6. Section 1601.260, Occupations Code, is amended
6 to read as follows:

7 Sec. 1601.260. ELIGIBILITY FOR STUDENT PERMIT. (a) An
8 applicant for a permit to be a student in a barber school must:

9 (1) submit an enrollment application to the board in
10 the form prescribed by the board;

11 (2) have completed the seventh grade;

12 (3) satisfy other requirements specified by the board;
13 and

14 (4) submit with the application a nonrefundable
15 application fee set by board rule [~~in an amount not to exceed \$25~~].

16 (b) A separate application is required for each enrollment,
17 reenrollment, or transfer enrollment. The application fee applies
18 only to the first enrollment. The board may [~~not~~] charge a separate
19 [~~the application~~] fee set by board rule for any later enrollment,
20 reenrollment, or transfer enrollment.

21 SECTION 7. Section 1601.261(b), Occupations Code, is
22 amended to read as follows:

23 (b) The board by rule shall set the fee for an examination
24 necessary to receive a certificate to practice barbering or to
25 practice as a barber technician or a manicurist [~~in an amount not to~~
26 ~~exceed \$50~~].

27 SECTION 8. Section 1601.266, Occupations Code, is amended

1 to read as follows:

2 Sec. 1601.266. DUPLICATE CERTIFICATE. The board may issue
3 a duplicate certificate on written application of the certificate
4 holder and payment of a fee set by board rule ~~[not to exceed \$10]~~.

5 SECTION 9. Section 1601.301, Occupations Code, is amended
6 by amending Subsection (b) and adding Subsections (c) and (d) to
7 read as follows:

8 (b) A person who owns, operates, or manages a barbershop or
9 specialty shop must, not later than the third day after the date on
10 which the shop opens for business, [+

11 ~~[(1)]~~ submit an application to the board for an
12 appropriate permit for the ~~[each]~~ shop, accompanied by the
13 application fee set by board rule ~~[, and~~

14 ~~[(2)] register with the board the person's full name and~~
15 ~~the location of each shop].~~

16 (c) The application must provide:

17 (1) the permanent address of the barbershop or
18 specialty shop;

19 (2) the legal description of the premises to be
20 licensed;

21 (3) the person's full name; and

22 (4) any other information required by the board.

23 (d) A person operating under a barbershop permit or
24 specialty shop permit may not move the operation to another
25 location without submitting a new application to the board,
26 accompanied by the application fee set by board rule.

27 SECTION 10. Section 1601.303, Occupations Code, is amended

1 to read as follows:

2 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. (a) The
3 board shall issue a barbershop permit to an applicant if:

4 (1) the applicant is an owner of the shop [~~holds a~~
5 ~~Class A barber certificate~~];

6 [~~(2) the applicant has practiced barbering for at~~
7 ~~least 12 months,~~] and

8 (2) [~~(3)~~] the shop meets the minimum health standards
9 for barbershops set by the board and complies with all other rules
10 of the board.

11 (b) If a barber is not the owner of the barbershop, the shop
12 owner's name must also appear on the barbershop permit.

13 SECTION 11. Section 1601.304(b), Occupations Code, is
14 amended to read as follows:

15 (b) An applicant for a manicurist specialty shop permit must
16 submit:

17 (1) an application that includes:

18 (A) the shop's address;

19 (B) the legal description of the premises for
20 which the permit is sought; and

21 (C) any other information required by the board;
22 and

23 (2) an inspection fee in an amount set by board rule
24 [~~not to exceed \$50~~].

25 SECTION 12. Section 1601.353(b), Occupations Code, is
26 amended to read as follows:

27 (b) An applicant for a barber school permit must submit to

1 the board:

2 (1) a detailed drawing and chart of the proposed
3 physical layout of the school, showing the departments, floor
4 space, equipment, lights, and outlets;

5 (2) photographs of the proposed site for the school,
6 including the interior and exterior of the building, rooms, and
7 departments;

8 (3) a detailed copy of the training program;

9 (4) a copy of the catalogue and promotional literature
10 of the school;

11 (5) a copy of the building lease or proposed building
12 lease if the building is not owned by the school;

13 (6) a sworn statement showing the ownership of the
14 school; and

15 (7) a permit fee set by board rule [~~not to exceed~~
16 ~~\$1,000~~].

17 SECTION 13. Section 1601.356(b), Occupations Code, is
18 amended to read as follows:

19 (b) A barber school that is not approved by the board on
20 initial inspection may be reinspected. The board shall charge a
21 reinspection fee in an amount set by board rule [~~not to exceed~~
22 ~~\$500~~].

23 SECTION 14. Section 1601.402(c), Occupations Code, is
24 amended to read as follows:

25 (c) The board shall issue a renewal certificate or license
26 on receipt of a renewal application in the form prescribed by the
27 board, accompanied by a renewal fee in an amount set by board rule

1 ~~[equal to the original certificate or license fee but not to exceed~~
2 ~~\$100]~~.

3 SECTION 15. Section 1601.403, Occupations Code, is amended
4 to read as follows:

5 Sec. 1601.403. RENEWAL OF TEACHER'S CERTIFICATE. The board
6 shall renew a teacher's certificate biennially on or before
7 November 1 of each odd-numbered year on payment of a renewal fee set
8 by board rule ~~[not to exceed \$100]~~.

9 SECTION 16. Sections 1601.404(b) and (c), Occupations Code,
10 are amended to read as follows:

11 (b) A Class A barber or license holder whose certificate or
12 license has been expired for not more than five years may reinstate
13 the person's certificate or license by applying to the board and
14 submitting a personal affidavit that the board determines provides
15 a justification for issuing a certificate or license to the person.
16 The person must pay a fee set by board rule ~~[equal to the amount of~~
17 ~~the current certificate or license fee]~~ and an additional
18 delinquency fee set by board rule ~~[of \$30]~~ for each year or part of a
19 year the certificate or license has been expired.

20 (c) A Class A barber or license holder who retires from
21 practice and whose certificate or license has been expired for more
22 than five years may qualify for a new certificate or license by
23 applying to the board and by:

24 (1) making a proper showing to the board, supported by
25 a personal affidavit;

26 (2) paying an examination fee set by board rule ~~[not to~~
27 ~~exceed \$100]~~;

1 (3) passing a satisfactory examination conducted by
2 the board; and

3 (4) paying the fee for an original certificate or
4 license.

5 SECTION 17. Section 1601.405(b), Occupations Code, is
6 amended to read as follows:

7 (b) The board shall issue a renewal certificate or license
8 on application and payment of the current [a] renewal fee not later
9 than the 90th day after the date the person is released or
10 discharged from active duty in the armed forces. [~~The renewal fee~~
11 ~~is:~~

12 [~~(1) \$10 if the application and payment are made~~
13 ~~during the period beginning November 1 of an odd-numbered year and~~
14 ~~ending October 31 of the following year, or~~

15 [~~(2) \$5 if the application and payment are made during~~
16 ~~the period beginning November 1 of an even-numbered year and ending~~
17 ~~October 31 of the following year.]~~

18 SECTION 18. Section 1601.406, Occupations Code, is amended
19 to read as follows:

20 Sec. 1601.406. RENEWAL OF BARBERSHOP OR SPECIALTY SHOP
21 PERMIT. (a) A barbershop permit or specialty shop permit expires
22 on the second anniversary of the date of issuance of the permit
23 [~~July 1 of each odd-numbered year~~].

24 (b) A barbershop permit holder may renew the permit by
25 paying a renewal fee set by board rule [~~not to exceed \$70~~].

26 (c) A specialty shop permit holder may renew the permit by
27 submitting to the board a renewal application accompanied by a

1 renewal fee set by board rule [~~not to exceed \$50~~].

2 SECTION 19. Section 1601.407(b), Occupations Code, is
3 amended to read as follows:

4 (b) A barber school may renew its permit by paying a renewal
5 fee set by board rule [~~not to exceed \$300~~].

6 SECTION 20. Section 1601.408, Occupations Code, is amended
7 to read as follows:

8 Sec. 1601.408. RENEWAL OF EXPIRED PERMIT. A person holding
9 a barbershop, specialty shop, or barber school permit that has been
10 expired for more than 30 days may renew the person's permit by
11 submitting to the board a renewal application accompanied by:

- 12 (1) the regular renewal fee; and
13 (2) an additional delinquency fee set by board rule
14 [~~of \$30~~] for each year or part of a year the permit has been expired.

15 SECTION 21. Subchapter I, Chapter 1601, Occupations Code,
16 is amended by adding Section 1601.409 to read as follows:

17 Sec. 1601.409. CONTINUING EDUCATION. The board may
18 recognize, prepare, or administer continuing education programs
19 for the practice of barbering. Participation in the programs is
20 voluntary.

21 SECTION 22. Section 1601.501, Occupations Code, is amended
22 to read as follows:

23 Sec. 1601.501. DISPLAY OF BARBERSHOP OR SPECIALTY SHOP
24 PERMIT. The holder of a [A] barbershop permit or specialty shop
25 permit [~~holder~~] must display the permit in a conspicuous place in
26 the shop for which the permit is issued.

27 SECTION 23. Section 1601.506, Occupations Code, is amended

1 to read as follows:

2 Sec. 1601.506. CLEANLINESS. The board by rule shall adopt
3 reasonable standards for cleanliness applicable to each holder of a
4 license or permit under this chapter [~~(a) A person in charge of a~~
5 ~~barbershop or specialty shop shall:~~

6 ~~[(1) keep the shop and all furniture, tools,~~
7 ~~appliances, and other equipment used at the shop in a clean~~
8 ~~condition;~~

9 ~~[(2) wash thoroughly, at least once daily, and~~
10 ~~otherwise maintain the cleanliness of each comb, hairbrush, or~~
11 ~~similar item used in the shop; and~~

12 ~~[(3) sterilize, at least once after each use, each~~
13 ~~mug, shaving brush, razor, scissors, shears, clippers, or tweezers~~
14 ~~used in the shop].~~

15 ~~[(b) A barber or other person regulated under this chapter~~
16 ~~shall immediately after using:~~

17 ~~[(1) a mug, shaving brush, or clippers for the service~~
18 ~~of a person, sterilize the equipment by immersing it in boiling~~
19 ~~water for at least one minute; or~~

20 ~~[(2) a razor or scissors, shears, or tweezers for the~~
21 ~~service of a person, sterilize the equipment by:~~

22 ~~[(A) immersing it for at least 10 minutes in a~~
23 ~~five percent aqueous solution of carbolic acid; or~~

24 ~~[(B) immersing it in boiling water for at least~~
25 ~~one minute.~~

26 ~~[(c) A barber or other person regulated under this chapter~~
27 ~~may not:~~

1 ~~[(1) use for the service of a customer.~~

2 ~~[(A) a comb or hairbrush or any similar item that~~
3 ~~is not thoroughly clean,~~

4 ~~[(B) a mug, shaving brush, or razor or shears,~~
5 ~~scissors, clippers, or tweezers that are not thoroughly clean or~~
6 ~~that have not been sterilized since last used, or~~

7 ~~[(C) a towel or washcloth that has not been~~
8 ~~laundered since last used,~~

9 ~~[(2) serve a customer unless the person thoroughly~~
10 ~~cleans the person's hands immediately before the service,~~

11 ~~[(3) use on more than one person the same piece of alum~~
12 ~~or other material to stop the flow of blood,~~

13 ~~[(4) shave a person when the surface to be shaved is~~
14 ~~inflamed, is broken out, or contains pus,~~

15 ~~[(5) permit any person to use the headrest of any~~
16 ~~barber's chair under the person's control until after the headrest~~
17 ~~has been covered with a towel that has been laundered since last~~
18 ~~used or with clean new paper or a similar clean substance,~~

19 ~~[(6) use a powder puff or sponge in the service of a~~
20 ~~customer unless it has been sterilized since last used,~~

21 ~~[(7) use a finger bowl unless it has been sterilized~~
22 ~~since last used and fresh water or other liquid has been placed in~~
23 ~~the bowl, or~~

24 ~~[(8) serve a customer without the use of a sanitized~~
25 ~~neck strip, cloth towel, or paper towel between the customer and the~~
26 ~~chair cloth.~~

27 ~~[(d) A person subject to Subsection (c) may use a neck~~

1 ~~duster in providing services for a customer.]~~

2 SECTION 24. Section 1601.560(a), Occupations Code, is
3 amended to read as follows:

4 (a) In addition to the teacher required by Section
5 1601.355(b), a barber school that provides training leading to
6 issuance of a Class A barber certificate shall have at least one
7 qualified instructor, holding a Class A certificate, for every 25
8 ~~[20] students on the premises [for instruction in practical work].~~

9 A teacher may serve as an instructor in practical work in addition
10 to holding a position as a theory teacher.

11 SECTION 25. Sections 1601.651(a) and (b), Occupations Code,
12 are amended to read as follows:

13 (a) The attorney general may file an action for an
14 injunction or other proceeding to:

15 (1) enforce this chapter; or

16 (2) enjoin a barber, barbershop owner, or barber
17 school from operating in violation of this chapter.

18 (b) A barber, barbershop owner, or barber school that
19 operates in violation of this chapter is liable to the state for a
20 civil penalty in the amount of \$25 a day for each day a violation
21 occurs. The attorney general may bring an action under this
22 subsection. The attorney general shall bring an action under this
23 subsection in Travis County.

24 SECTION 26. Subchapter N, Chapter 1601, Occupations Code,
25 is amended by adding Sections 1601.652 and 1601.655 to read as
26 follows:

27 Sec. 1601.652. CRIMINAL PENALTY. (a) A person commits an

1 offense if the person violates this chapter or a rule adopted under
2 this chapter.

3 (b) An offense under this section is a misdemeanor
4 punishable by a fine of not less than \$100 or more than \$300.

5 Sec. 1601.655. EMERGENCY ORDERS; CEASE AND DESIST ORDERS.

6 (a) The executive director may issue an emergency order as
7 necessary to enforce this chapter if the executive director
8 determines that an emergency exists requiring immediate action to
9 protect the public health and safety.

10 (b) The executive director may issue an emergency order
11 under Subsection (a) without notice and hearing or with any notice
12 and hearing the executive director considers practicable under the
13 circumstances. The executive director shall set the time and place
14 for a hearing to affirm, modify, or set aside an emergency order
15 that was issued without a hearing.

16 (c) The executive director may issue a cease and desist
17 order.

18 SECTION 27. Section 1601.705(a), Occupations Code, is
19 amended to read as follows:

20 (a) If the person requests a hearing [~~or fails to respond in~~
21 ~~a timely manner to the notice~~], the executive director shall set a
22 hearing and give written notice of the hearing to the person. An
23 administrative law judge of the State Office of Administrative
24 Hearings shall hold the hearing.

25 SECTION 28. Sections 1601.264, 1601.302, 1601.310,
26 1601.311, 1601.402(d), and 1601.503, Occupations Code, are
27 repealed.

1 SECTION 29. Chapter 1601, Occupations Code, as amended by
2 this Act, applies only to a license or permit issued, or a fee
3 charged, by the State Board of Barber Examiners on or after the
4 effective date of this Act.

5 SECTION 30. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2005.

S.B. No. 1245

By Carver

A BILL TO BE ENTITLED

AN ACT:

relating to the regulation of barbers and related occupations, barbershops and specialty shops, and barber schools; providing a criminal penalty.

MAR 09 2005

Filed with the Secretary of the Senate

**BUSINESS AND
COMMERCE**

MAR 21 2005

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays

Read second time, _____, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays

Senate and Constitutional 3 Day Rule suspended by a vote of _____ yeas, _____ nays.

Read third time, _____, and passed by: { A viva voce vote
_____ yeas, _____ nays

SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed

Sent to House

Engrossing Clerk _____

Received from the Senate

Read first time and referred to Committee on _____

Reported _____ favorably (as amended) (as substituted)

Sent to Committee on (Calendars) (Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting.

Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Returned to Senate.

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays